SECOND REPORT

OF

STANDING COMMITTEE ON EDUCATION.

1848.

To the Worshipful the Mayor, Aldermen, and Commonalty of the City of Toronto, in Common Council assembled.

The Standing Committee on Education beg leave to submit their Report No. 2.

They have had under consideration the communication of the Secretary to the Board of Trustees of Common Schools, dated April 17, 1848, referred to them by your Worshipful Body.

Your Committee find by the Estimate of Common School expenditure transmitted with that communication, that the Board of Trustees call upon your Worshipful Body to raise by assessment, for school purposes, in the current year, the sum of £9000, which your Committee learn on reference to the assessment rolls for the past year, cannot be realized under a lower rate than 4½d. in the pound, on all rateable property in this City.

Your Committee, contrasting this high rate of assessment with that which has heretofore been levied for the support of the City Schools, have been led carefully to investigate the circumstances which induced the necessity of so serious an increase of taxation; and would here beg to draw the attention of your Worshipful Body to the following facts, explanatory:—

First.—It is known to your Worshipful Body, that under the provisions of the Common School Acts of Upper Canada, prior to the enactment of 11th and 12th of Victoria, Cap. 19th, in July, 1847, the funds for the maintenance of Common Schools within this City, were derived from four distinct sources; viz.

1st. From an annual Parliamentary grant.

2. From an assessment on the rateable property in the City, collected annually with the tax levied for City purposes, and required to be equal to the Parliamentary grant.

3. From a certain fund accumulated by the payment of the Parliamentary grant, and the City assessment into the hands of the Chamberlain, before the City Common Schools were put in operation; and

4. From certain rate-bills or school-dues collected by the teachers from the parents of the scholars.

The portion of the cost of maintenance of Common Schools in 1847, your committee find, by a statement handed to them by the City Superintendent (marked No. 4, and hereto attached) derived from the three last mentioned sources was £1795 17s. 4d., of which amount no less than £958 4s. 11d., more than one half, was raised by Rate-bills, or school dues by the Teachers from the parents of the children attending the Schools. Your Committee learned, in their conferences with members of the Board of Trustees, and the City Superintendent, that by the amended act for the regulation of Common Schools in Upper Canada 11 & 12 Vic., Chap 19, it is no longer legal for the Teachers to levy Rate-bills on the parents of the scholars—but that it becomes incumbent on your Worshipful Body now to make provision by assessment on the rateable property in the City, for the total school expenditure, less the amount of the annual Parliamentary grant herein before mentioned.

Your Committee cannot refrain from expressing their surprise, that a change in the Common School law, so materially affecting the interests of the owners of property in this city, should have been contemplated, without any reference having been made by the framers of the act, or by the Legislature, to your Worshipful Body, on whom devolves the necessity of making provision for the deficiency of School funds thus created by the levying of an additional taxation upon the civic electors of this city; more particularly too as the chief Superintendent of Education, who, your Committee have been informed, prepared the original draft of the Bill, has his residence in this city.

In consequence of this change in the Common School law, it now becomes incumbent on your Worshipful Body to levy by assessment, as before referred to, the sum of £9000, to meet the expenditure of City Common Schools for the current year.

By the provisions of the present Common School Act, the duty of estimating the requisite amount to be raised by assessment for school purposes, devolves upon the Board of School Trustees nominated by your Worshipful Body.

The Board of Trustees have placed before your Worshipful Body their estimate of such requisite assessment, which has been duly referred to your Committee, and is hereto annexed.—(marked No. 5.)

Your Committee having felt some embarrassment in the interpretation of some of the clauses of the present amended School Act, deemed it expedient to ask for the opinion of the law officers of the Crown on the points on which they were in doubt. They accordingly obtained through the Board of Trustees, the opinion—first of the Hon. the late Solicitor-General West, and subsequently that of the Hon. the present Attorney-General West, on these doubtful points, the former of which will be found in document No. 1 and the latter in No. 3. hereto annexed.

These opinions are so explicit and decisive that your Committee do not deem it necessary to offer any remarks on them, but would refer your Worshipful Body to the documents themselves as embodying all the information required on the subjects considered in them. It is quite manifest that, under the present School Law, it becomes the duty of your Worshipful Body, in carrying out the intentions and provisions of the same, to levy by assessment on the rateable property in this city, the amount estimated by the Board of Trustees as necessary for the support of the Common Schools therein,—say for the current year the sum of £9000—or equal to 4½d in the pound on the assessed value.

Your Committee are not of opinion that it is imperative on your Worshipful Body to levy any amount, whatever, for School purposes, unless your Worshipful Body see fit to do so. The privilege of municipal legislation in local affairs would be a nullity, were the act of so legislating no longer a matter of choice; for then the people would virtually be taxed, for local purposes, by an authority different from that of their own constitutional, local government;—an anomaly at once repugnant to British freedom and common sense.

The Provincial law prescribes the manner in which the municipalities shall determine the amount to be contributed by each taxpayer, and in the present case it defines the mode in which the city and town municipalities shall compute their estimates of the requisite amounts; but it does not, and it cannot enforce upon them the absolute necessity of levying the assessment, or amount so estimated.

The estimate presented by the Board of Trustees must, as an essential preliminary to its being authorized by municipal legislation to be levied, meet with the concurrence of the Municipal Legislature; and should the Board of Trustees insist upon the carrying into effect, by Municipal Legislation, of a rate of assessment deemed by the Municipal Legislature impracticable, or inexpedient, then it would become evident that such Board considered itself not a subordinate organization, chosen by the municipality for the carrying out of its measures in accordance with the well understood wants and wishes of the people, but a body endued by law with the anomalous power of dictating to its own nominators the extent to which they are to levy contributions upon their constituents; which in the event of a difference of opinion between the municipality and the Board of Trustees, would be, in fact, equivalent to the taxation of the subjects contrary to the voice of their representatives.

In the present instance, it will be for your worshipful Body to consider whether the estimate laid before you, by the Board of Trustees, is such as to warrant the conclusion that in enacting its assessments on the proprietors of this City, your worshipful Body will be carrying into effect the purposes for which the members of this Council have been elected by their constituents; and if so, your worshipful Body will of course make the necessary enactment. But if your worshipful Body do not see fit to authorise the levying of the amount recommended in the estimate submitted by the Board of Trustees, it will be necessary that the Board reconsider the estimate, and recommend another, in accordance with the views of your Worshipful Body.

Your Committee are decidedly of opinion that, as your worshipful body has entered into arrangements for the sustaining and government of the schools, by complying with the amended Common School Act, in the appointment of a Board of Trustees, whose duty it is to manage all school property and funds on behalf of your worshipful body, and by whose acts transpired your worshipful body are bound to abide, it will be unavoidably necessary that your worshipful body levy for the present year the amount required for the maintenance of the City Common Schools, in accordance with the provisions of the amended Act herein referred to.

Your Committee, in closing this Report, beg to state, that duly impressed with the great importance of the diffusion of education among all classes of the people of this young and flourishing country, they have bestowed upon the subject now under consideration, the most careful reflection, and they are deeply sensible of the heavy responsibility resting upon them to co-operate with all those who aim at the moral and intellectual elevation of the community of which they are members, and in whose prosperity and happiness they are participators.

Your Committee therefore feel reluctant to suggest to your Worshipful Body any course of action which might unfortunately tend to militate against the interests, or in any way to retard the progress of general Education. It is, however, the conviction of your Committee, that the present amended Common School Act, in so far at least, as relates to the making of pecuniary provision for the support of Common Schools, in this City, is unsuited to the purpose: and they consider a reversion to the previously existing system of raising a portion of the expenditure by Rate Bills, on the parents of the scholars or the adoption of some other means of raising school funds, by which your worshipful Body may be relieved from the necessity of imposing a School tax so weighty as that now found to be requisite, to be desirable, and in accordance with the wishes of the great majority of the inhabitants of this City.

This amendment, together with such others as your worshipful Body may, upon a careful examination of the whole of the existing Common School Laws, deem expedient to recommend, your Committee would suggest should be embodied in a petition from your worshipful Body to the Provincial Legislature, at the opening of the ensuing Session of Parliament.

All which is respectfully submitted.

(Signed) GEO. T. DENNISON, Jr., Chairman.
(Signed) JOSEPH WORKMAN, Ald.
(Signed) GEO. F. RIDOUT, Ald.

Committee Room, May 1, 1848.

"I concur in this Report, with the exception of that part of it which says that the Council has by the appointment of the Board of Trustees bound itself to levy the amount of the estimate now submitted to this Committee."

(Signed) GEO. T. DENISON, Jr.

(Copy.) [No. 1.]

Education Office,
Toronto, 1st Feb. 1848.

Sir,—

I have been requested by the Board of Trustees of Common Schools for the City of Toronto, to submit to the Law Officers of the Crown, a legal point, respecting which the said Board of Trustees have some doubt.

It is, whether by the amended Common School Act, 10th and 11th Vic., ch. 19, the Board of Trustees of Common Schools for the City of Toronto have authority to impose a Rate-bill upon parents or guardians sending children to their Schools, or whether it is the duty of the Board to lay before the Council an Estimate of the sum or sums (in addition to the amount of the Legislative Grant) necessary to support the City Common Schools, and for the Council to provide the same by Assessment?

I will be much obliged by your legal opinion on this point at earliest convenience.

I have the honor to be
Your most obedient humble servant,

(Signed) Egerton Ryerson.

To the Honorable
J. E. Cameron, M. P. P.,
Solicitor General, Toronto.

(Copy.)

The Solicitor General's Reply.

Albany Chambers,
5th Feb. 1848.

Sir,—

In answer to your communication of the 1st inst., on the subject of imposing a Rate-bill by the Board of Trustees of the City of Toronto, under the Common School Act, 10th and 11th Vic., ch. 19, I am of opinion that an Estimate of the amount required should be furnished to the City Council by the Board of Trustees, and that the same should be raised by assessment, under the authority of the City Council.

I have the honor to be, &c.,

(Signed) J. Hillyard Cameron,
Sol. Gen.

(True copies.)
G. A. Barber.

(Copy.) [No. 2.]

Education Office,
Toronto, March 17, 1848.

Sir,—

I have been instructed by the Board of Trustees for Common Schools for this City, to *again* bring under your consideration the *strict* legal construction to be put upon the amended School Act, 10 and 11 Victoria, chap. 19, for Cities and Incorporated Towns.

A Committee of the Board of Trustees have had several conferences with the Education Committee of the Common Council on the subject of an assessment to defray the whole expenses of the Common Schools of this City; and during those conferences the various documents which have been published in connection with the question, have been read and considered, together with the opinion of Mr. Solicitor General Cameron given, through you, for the information of the Board of Trustees.

The Education Committee of the Council have not, however, been able, thus far, to satisfy themselves that the Act, 10 and 11 Vic., makes it obligatory upon the Council to carry out this principle of Assessment; they look upon Mr. Solicitor General's opinion as too vague, and not conclusive in determining this particular; and they desire to be more thoroughly informed as regards the force of the obligation which the Board of Trustees desire to impose upon the Council, under what the Board takes to be the true meaning of the statute.

Under these circumstances the Board of Trustees would feel obliged by your again submitting the case in a more distinct and tangible shape, so that no possible doubts can exist as to the proper course the Council is called upon to pursue. The Board of Trustees have therefore to request you would have the goodness to place the following Queries before the Crown Officer for his legal opinion;—and the Board would be further obliged by your losing no time in forwarding these Queries to the proper Officer, and by your communicating the replies at your earliest convenience.

[Here follow the Queries proposed by the Board of Trustees, but as they are repeated in Dr. Ryerson's reply, it is not necessary to state them here.]

I have the honor to be,
Sir,
Your obedient servant,
(Signed) G. A. Barber,
Secretary, Board of Trustees.

To the Rev. Dr. Ryerson,
Chief Sup. of Schools, C. W.

(A true Copy.)
G. A. B.

(Copy.) [No. 3.]

Education Office,
Toronto, 15th April, 1848.

Sir,—

In compliance with the request contained in your letter of 17th ultimo, I submitted the three queries proposed by the Board of Trustees for the City of Toronto, to the Honorable the Attorney General for Upper Canada. I have this day received Mr. Baldwin's answer. For the convenience and satisfaction of your Board, I hereto subjoin a copy of the three queries submitted to the Attorney General, and a copy of his opinion on each of them in the order proposed.

I have the honor to be,
Sir,
Your obedient servant,
Egerton Ryerson.

G. A. Barber, Esquire,
Secretary, Board of Trustees, Common Schools,
City of Toronto.

Copy of the Queries and Answers referred to in the preceding Communication:—

First Question:

"Under the amended School Act for Cities and Incorporated Towns, viz.: 10th and 11th Vic., Cap. 19, have the Board of Trustees the power to levy a *Rate Bill upon the parents or guardians of the pupils attending the Common Schools* of this city, in order to assist in paying the Salary of the Teachers?"

Answer:

"The Board of Trustees have not the power to levy a Rate-bill upon the parents and guardians of children attending the Common Schools of this City."

Second Question:

"Or, is it not *obligatory* upon the Common Council of this City, to provide by *an assessment* on *property* based upon an estimate, laid before them by the Board of Trustees, *for the whole expense* of maintaining Common Schools, paying the Salaries of Teachers and for other School purposes?"

Answer:

"The Council of the City is bound to raise by Assessment the sum required, to meet the estimates submitted by the Board of Trustees."

Third Question:

"Or, has the Legislature in the Act referred to, left it to the discretion of the Common Council to provide for the expense of maintaining Common Schools, &c., &c., in the mode prescribed by the School Act, 9th Vic., Cap. 20, viz.: partly by Assessment, equal to the amount of the Provincial Grant, and partly by Rate Bill on the parents of pupils—if the Common Council should desire to continue that System?"

Answer:

"The Council itself is not authorized to levy money in any other way than by Assessment for School purposes, and has not therefore the option suggested by the question."

J. G. Hodgins,
Clerk, Education Office.

Educational Office,
Toronto, 15th April, 1848.
(True copies.)

(Copy) [No. 4.]

Statement of the Expense of Maintaining the Common Schools of the City of Toronto for the year ending Dec. 31st, 1847, as follows, viz:—

1st. Paid by the City out of an Assessment for School purposes on the rateable property of the City and Liberties—being an amount, clear of the charge of collection, at least equal to the Provincial Grant in aid of Common Schools—the aggregate of the two amounts forming the School Fund to be apportioned among the Teachers,..... £467 12 5

2nd. Paid by the City as Rent for 16 School Houses, at £20 per annum,..... 320 0 0

3rd. Paid by the City as Salary to the City Superintendent of Schools,..... 50 0 0

4th. Amount imposed by Rate-bill on the Parents of Scholars attending the Schools—forming the residue of the Teachers' income..... 958 4 11

Total cost to the inhabitants of Toronto,.....£1795 17 4

(A true Copy.)
G. A. Barber.

(Copy.) [No. 5.]

[Adopted March 13th, 1847.]

City of Toronto Board of Trustees for Common Schools.

An Estimate of the Amount of Money required for the current year, 1848, for paying the Salaries of Teachers, and for other School purposes, as below enumerated, within said City—prepared and made out, to be laid before the Common Council of said City, in accordance with the provisions of the Act, 10 and 11 Victoria, chap. 19, viz:—

1. Rent of 15 School Houses, at £20 per annum each,	£300	0	0
2. Casual Repairs of do.	50	0	0
3. Maps, Books of Reference, and Books for indigent Scholars,	25	0	0
4. Fuel for aforesaid Schools,	75	0	0
5. Salaries of 15 Teachers, at an average of £112 10.	1687	10	0
6. Reserve Fund to pay for the services of Assistants, if needed,	200	0	0
7. Contingent Expenses of the Board	25	0	0
8. Salary to the City Superintendent of Schools, also acting as Secretary to the Board of Trustees	125	0	0
Total amount of Estimate,	£2477	10	0
Less the Government Grant for 1848, assumed at the same as 1847,	467	12	5
Nett amount required to be raised by assessment,	£2009	17	7

(A true Copy.)
G. A. Barber.

SECOND REPORT

OF

STANDING COMMITTEE ON EDUCATION.

PRINTED BY J. CLELAND, POST OFFICE LANE.